IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO : 1850 of 1998

Between:

M/s Indore Cattle Feed Pvt.Ltd., rep. By its authorised signatory

Sri Ashok Kumar, S/o Giridharilal Parikh, Age 36Yrs., R/o Begum Bazar,

Hyderabad.

..... PETITIONER

AND

1. The Union of India, rep. By its Secretary,

   Ministry of Chemicals & Fertilisers

   (Department of Chemicals &Petro Chemicals).New Delhi.

2. State of Andhra Pradesh, rep. By its Secretary,

   Revenue Excise Department, Secretariat buildings, Hyderabad.

3. The Commissioner of Prohibition and Excise,

   Govt. of Andhra Pradesh, Gaganvihar, M.J.Road, Hyderabad.

4. Sub-Divisional Prohibition & Excise Officer, Nizamabad.

5. The Nizamabad Co-operative Sugar Factory Ltd., rep. By

   Its Managing Director, Nizamabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction declaring a) That G.O.Ms.No.982 Revenue (Ex.III), dated 06.10.1989 issued by the 2nd respondent is ultravires his

powers under the A.P.Excise Act in so far as it relates to Molasses in item 11 under the aforesaid G.O. b) That the petitioner is entitled to purchase, lift any quality of Molasses from anybody in the State of Andhra Pradesh and transport the same to it's factory at Indore, Madhya Pradesh State. c) To grant a mandatory injunction restraining the 2nd and 3rd respondents, their men, agents, Servants, Subordinates in any department, throughout the State of Andhra Pradesh from interfering with the petitioner purchasing, lifting of any quantity of Molasses from anybody in the state of Andhra Pradesh and to transport the same to it's factory at Indore, M.P.State. d) And to pass such other order or orders as this Hon'ble Court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.PANDURANGA RAO

Counsel for the Respondent Nos.2 to 4: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.1 and 5: None appeared.

The Court made the following Order :

The issue raised in this writ petition is squarely covered by the decision of the Division Bench of this Court in Writ Appeal No.2209 of 1998 and batch, dated 08.05.2001,wherein it was held as under:

> "The restriction of transportation of molasses is only if it is intended for utilisation of illicit distillation and on such occasion only the respondent authority can take action. But, however, if any individual is transporting the Molasses under a valid purchase bills to the destination of the purchaser, the respondents authority have no right to interfere with such transportation.
>
> Therefore, the writ petition is disposed of clarifying the position that the respondents have no right to insist the petitioner for any permission or for obtaining NOC for transport of Molasses from the Sugar Factories to any other specified destination for being used by the purchaser."

Accordingly, the writ petition is disposed of in terms of directions in the above decision. No costs.

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23-09-2004

klp

To

1. The Secretary, Union of India,

   Ministry of Chemicals & Fertilisers

   (Department of Chemicals &Petro Chemicals).

2. The Secretary to the State of Andhra Pradesh,

   Revenue Excise Department, Secretariat buildings, Hyderabad.

3. The Commissioner of Prohibition and Excise,

   Govt. of Andhra Pradesh, Gaganvihar, M.J.Road, Hyderabad.

4. Sub-Divisional Prohibition & Excise Officer, Nizamabad.

5. The Managing Director, Nizamabad Co-operative Sugar Factory Ltd., Nizamabad.

6. 2CCs to G.P. for Proh.&Excise, High Court buildings,

Hyderabad.(OUT).

7. 2CD copies